

1 UNITED STATES DISTRICT COURT  
2 SOUTHERN DISTRICT OF NEW YORK

3 UNITED STATES OF AMERICA,

4 v.

20 cr 473 (VM)

5 SAIBO SIDIBEH,

6 Defendant.

Conference

7 -----x  
8 New York, N.Y.  
9 September 30, 2020  
12:00 p.m.

10 Before:

11 HON. VICTOR MARRERO,

12 District Judge

13 APPEARANCES

14 AUDREY STRAUSS

15 Acting United States Attorney for the  
Southern District of New York

16 BY: ANDREW ROHRBACH  
Assistant United States Attorney

17 DAVID E. PATTON

18 Federal Defenders of New York, Inc.  
Attorney for Defendant

19 BY: ARIEL WERNER  
Assistant Federal Defender

20 ROTHMAN, SCHNEIDER, SOLOWAY & STERN's, LLP  
21 Attorneys for Defendant Fall

22 BY: JEREMY SCHNEIDER

LAZZARO & GREGORY P.C.

23 Attorneys for Defendant Danfakha

24 BY: JAMES ANDREW KILDUFF

25 EVANS D. PRIESTON

Attorney for Defendant Diallo

KOCH LAW  
Attorneys for Defendant Diakite  
BY: LEE ADAM KOCH

DAWN M. FLORIO LAW FIRM PLLC  
Attorneys for Defendant Sabaly  
BY: DECLAN MURRAY

ROTHMAN, SCHNEIDER, SOLOWAY & STERN, LLP  
Attorneys for Defendant Doumbia  
BY: JOHN BURKE

THE COURT: Good afternoon. This is Judge Victor Marrero. This is a proceeding in the matter of United States v. Sidibeh and others.

Will counsel please enter your appearances for the record.

MR. ROHRBACH: Good afternoon, your Honor. This is Andrew Rohrbach for the government.

MS. WERNER: Good morning, your Honor. Federal Defenders by Ariel Werner on behalf of Saibo Sidibeh.

MR. PRIESTON: Evans Prieston on behalf of Mamadou Diallo.

MR. KILDUFF: James Kilduff appearing on behalf of Mamady Danfakha.

MR. SCHNEIDER: Jeremy Schneider -- good afternoon, your Honor -- for Moukhamede Fall.

MR. KOCH: Good morning, your honor. Lee Koch for Demba Diakite,

MR. PALMA: Your Honor, for Abubackr Danso, Richard Palma. Mr. Danso is participating in this call by his telephone at a different location.

MR. MURRAY: Good morning, your Honor. Good morning, counsel. Declan Murray of the Dawn Florio Law Firm appearing on behalf of attorney of record, Dawn M. Florio, for Mr. Mohammed Sabaly who is also on this call via telephone.

MR. BURKE: Good afternoon, Judge. For Bangaly

1 Doumbia, John Burke.

2 THE COURT: Anyone else? Anyone who has just joined?

3 DEFENDANT DANFAKHA: Mamady Danfakha.

4 THE COURT: Let me come back and indicate that this  
5 proceeding is taking place by teleconference. Let me  
6 acknowledge that defendants have a right to appear in person at  
7 these proceedings.

8 But under the Cares Act and the standing orders issued  
9 in this district by the chief judge in recognition of a  
10 coronavirus pandemic, we are authorized to proceed by  
11 teleconference with these proceedings, if the Court finds that  
12 either in person or video conference is not reasonably feasible  
13 at this time, given the pandemic. The Court in this case so  
14 finds.

15 The district's ability to conduct these proceedings,  
16 either in person or by video conference, is still limited, and  
17 teleconference is much more available and feasible.

18 Let me also acknowledge that in order to proceed by  
19 these means, it is necessary for us to confirm on the record  
20 that the defendants consent to proceeding in this manner by  
21 these means.

22 So I would like to ask counsel on behalf of each of  
23 the defendants to indicate whether you have discussed this  
24 matter with your client and whether your clients have consented  
25 to appearing in this proceeding via teleconference.

MS. WERNER: Your Honor, I'm sorry. I didn't mean to interrupt.

THE COURT: Did you just join the conference?

MS. WERNER: No. I was beginning to answer your question, perhaps prematurely.

THE COURT: I'm done. If you would just perhaps go, if possible, in the order in which you made your appearances. If not, just go one at a time in the same manner in which you made your appearances.

MS. WERNER: Yes, your Honor. Ariel Werner for Mr. Saibo Sidibeh. Mr. Sidibeh consents to this hearing being conducted by teleconference. He also waives his right to appear today. We filled out a written waiver of his appearance for this conference, which I've provided to your Honor's chambers yesterday.

THE COURT: All right. Let me facilitate things, and I will call upon the counsel of record for the defendants -- or call upon the defendant, and then counsel of record can then respond to the question.

For Mr. Fall?

MR. SCHNEIDER: Good afternoon, your Honor. Jeremy Schneider for Mr. Fall. Yes, your Honor. I have spoken with Mr. Fall. I informed him of his right to be present, either in person or by telephone. He waives his right to appear in person, and he also waives his right to have to be appearing at

1 this telephone conference, and he authorized me to appear on  
2 his behalf. Thank you.

3 THE COURT: Thank you.

4 Mr. Danfakha.

5 MR. KILDUFF: James Kilduff for Mr. Danfakha.

6 Mr. Danfakha is on the line, Judge. He does waive his right to  
7 appear in person. The Court can inquire of Mr. Danfakha  
8 himself. We have discussed it. It's my understanding that he  
9 has agreed to appear by telephone conference, but he is on the  
10 line.

11 THE COURT: Mr. Danfakha, would you confirm that you  
12 have discussed this matter with counsel and that you consent to  
13 appearing in this proceeding by teleconference.

14 DEFENDANT DANFAKHA: Yes.

15 THE COURT: Thank you.

16 Mr. Hydera.

17 MR. ROHRBACH: Your Honor, this is Andrew Rohrbach for  
18 the government. Mr. Hydera is not attending the conference  
19 today. There is currently a bench warrant for his arrest.

20 THE COURT: All right. Thank you.

21 Mr. Diallo.

22 MR. PRIESTON: Yes, your Honor. Evans Prieston for  
23 Mr. Diallo. Mr. Diallo is here in my office. I have discussed  
24 with him his right to be present and to proceed by  
25 teleconference.

1 THE COURT: Thank you. Mr. Diakite.

2 MR. KOCH: This is Lee Koch, attorney for Mr. Diakite.  
3 He understands that he can be present. He is present on the  
4 line and ready to go.

5 THE COURT: Has he consented to appearing by  
6 teleconference?

7 MR. KOCH: Yes, your Honor.

8 THE COURT: Thank you.

9 Mr. Sabaly.

10 MR. MURRAY: Declan Murray of the Dawn Florio Law Firm  
11 for Mohammed Sabaly. Attorney Florio discussed his right to  
12 appear in person with him, and we consent to proceed via  
13 teleconference. It is my understanding that Mr. Sabaly is on  
14 this call as well.

15 THE COURT: Thank you.

16 Mr. Doumbia.

17 MR. BURKE: John Burke for Mr. Doumbia. We discussed  
18 it, Judge. We've discussed his right to be physically present.  
19 He wants to proceed by teleconference. I believe he's on the  
20 call here. I discussed this with him earlier today, and he  
21 wants to proceed by telephone.

22 THE COURT: Mr. Danso.

23 MR. PALMA: Richard Palma for Mr. Danso. Mr. Danso  
24 and I have discussed his right to be present for a court  
25 proceeding not only today, but we've done it in the past for

1 the other proceeding.

2 He's fully aware of that right. He waives his right  
3 to be physically present at the hearing and agrees to  
4 participate by teleconference, which he is doing at this  
5 moment. He's present on the line, your Honor.

6 THE COURT: All right. I thank you very much.

7 Let me come back to a very crucial housekeeping matter  
8 which I omitted to refer to before.

9 Do we have a court reporter on the line?

10 THE COURT REPORTER: Yes. Good afternoon, your Honor.

11 THE COURT: Thank you very much.

12 Let us proceed. This is the first appearance by the  
13 defendants before the Court following their arraignment on the  
14 underlying charges in the indictment.

15 Would the government please inform the Court and the  
16 defendants with respect to discovery, schedules, and any other  
17 matters that the government wishes to bring to the Court's  
18 attention at this time.

19 MR. ROHRBACH: This is Andrew Rohrbach for the  
20 government.

21 The parties are currently discussing a protective  
22 order in this case. The categories of discovery we expect are  
23 primarily bank records and other records from financial  
24 institutions which will include surveillance images and videos,  
25 as well as ESI evidence that relates to social media accounts.



1           The discovery is somewhat voluminous, but we expect to  
2     be able to produce it fairly quickly following entry of a  
3     protective order, assuming the parties are able to reach an  
4     agreement.

5           The parties have not discussed a discovery schedule,  
6     but the government would ask for three weeks in order to  
7     conclude the conversations about the protective order and then  
8     to make the production.

9           THE COURT: All right. The government requests three  
10    weeks in order to conclude as much discovery as it has at the  
11    moment.

12          Assuming three weeks for completion of that exchange,  
13    production of discovery, have the defendants discussed the  
14    matter and reached a consensus on how much time you would need  
15    in order to review and be prepared for a next status  
16    conference?

17          MR. SCHNEIDER: Your Honor, this is Jeremy Schneider  
18    for Mr. Moukhamed Fall. While we haven't discussed it, I'm  
19    hoping that I can speak for all of us when I say that given the  
20    pandemic and the voluminous discovery, I think it would make  
21    sense for us to come back probably in the middle of January  
22    once we get the discovery because, as you well know, voluminous  
23    bank records and social media records take a long time to  
24    review.

25          So I would ask that we pick a status conference date

1 in mid January. At that time, I think we'll all be in a better  
2 position to tell you if we have been able to review all the  
3 discovery or if we need more time.

4 And if we have had a chance to review it, then we can  
5 tell you possibly if we have any motions. But I don't know  
6 that we would have enough time by then. But that's my request  
7 or suggestion, that we come back for a status conference in mid  
8 January.

9 THE COURT: Thank you.

10 I will ask the clerk to look at the calendar and see  
11 the availability for a conference towards the latter part of  
12 January. We have a trial through the most of January. So the  
13 latter part may be more convenient.

14 THE DEPUTY CLERK: Yes. The trial is expected to  
15 continue through January 29, but we could tentatively schedule  
16 the conference for some time on that day.

17 THE COURT: Why don't we look at the first week of  
18 February, the first Friday in February instead.

19 THE DEPUTY CLERK: Friday, February 5. We could do  
20 11:00 a.m. or any time thereafter.

21 THE COURT: Let's aim for 11:00 on Friday, February 5.

22 Is the government able or have any difficulty with  
23 that date?

24 MR. ROHRBACH: The government is available, your  
25 Honor.

1 THE COURT: Does that date pose any difficulties for  
2 any of the defense counsel?

3 I have not heard anything to the contrary.

4 Does the government have a motion on that schedule?

5 MR. ROHRBACH: Yes, your Honor. The government moves  
6 to exclude time under the Speedy Trial Act until that date so  
7 the government may produce discovery and the defendants will  
8 have an opportunity to review it and consider any motions they  
9 should like to file.

10 THE COURT: All right. On the government's motion to  
11 exclude adjourned time from speedy trial calculations from  
12 today through the next conference date on February 5, 2021, is  
13 there any objection from any defendant? If you do not have an  
14 objection, you do not need to say anything.

15 Hearing none, I grant the government's motion. I find  
16 that the reasons conveyed to the Court warrant this exclusion  
17 of time as it is intended to ensure the effectiveness of  
18 counsel and to prevent any miscarriage of justice.

19 I find that the ends of justice served by the granting  
20 of this continuance outweigh the best interests of the public  
21 and the defendants in a speedy trial. And I make these  
22 findings pursuant to the applicable provisions of the Speedy  
23 Trial Act.

24 Is there anything else from the government?

25 MR. ROHRBACH: Nothing from the government. Thank

1 you, your Honor.

2 THE COURT: Is there anything else from any of the  
3 defendants?

4 Hearing none, I thank you. Have a good day and good  
5 rest of the week. Stay safe and healthy.

6 (Adjourned)

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